

Please describe the facts that you believe constitute a violation of the Denver Code of Ethics in sufficient detail so that the Board of Ethics and the person who is the subject of the inquiry can understand the nature of the alleged violation. Give as much detail as possible, including approximate dates, names, etc. Add extra sheets if needed and attach copies of any pertinent documents.

Facts:

The redesign and reconstruction of the City Park Golf Course is a controversial project and the subject of a law suit against the City & County of Denver. The Golf Course redesign and reconstruction project is being coordinated by Denver Parks and Recreation Department as part of the Platte to Park Hill Stormwater Project. The law suit in Denver District Court alleges a connection between a the Platte to Park Hill Stormwater Project and a multi-billion dollar replacement of I-70 through the disadvantaged communities of Globeville, Swansea and Elyria. The law suit seeks to stop the destruction of the historic City Park Golf Course Project and the removal a mature, natural, oxygen rich tree canopy made up of hundreds of trees.

In his role as Deputy Executive Director, Parks and Recreation, in the Denver Parks and Recreation Department, Scott Gilmore has played a prominent and ongoing role in the City Park Golf Course project. He is a member of the Executive Oversight Committee (EOC) of the Platte to Park Hill Project and has served as a spokesperson for the Platte to Parkhill Project.¹ Mr. Gilmore has also attended meetings of the City Park Neighborhood Advisory Committee formed by Councilman Albus Brooks where he has advocated for the Golf Course project.

On, Monday, August 7, 2017, a series of Resolutions were considered before City Council. One approving a proposed On-Call Program Management Agreement between the City and County of Denver and Parsons Transportation Group, Inc., for program management services of the City Park Golf Course Parks and Drainage Improvements Design/Build Project, and the 39th Avenue/Park Hill Parks Drainage Improvements Design/Build Project for \$6 million and for three years for program management services of the City Park Golf Course parks and drainage improvements and the Park Hill parks and drainage improvements projects as part of the citywide Platte to Park Hill: Stormwater Systems project (201735100).

¹ “In addition to flood protection, the *Platte to Park Hill: Storm Systems* program will create much needed open space and add new recreational experiences in Denver,” said Scott Gilmore, Deputy Director of Denver Parks and Recreation. “And, as we work to integrate a water detention area into City Park Golf Course, we will look at improving those parts of the golf course impacted by construction and how we can make them better than before.” **Denver to Integrate Stormwater Detention into City Park Golf Course, April 6, 2016**, <https://www.denvergov.org/content/denvergov/en/denver-department-of-public-works/newsroom/2016/stormwater-detention-announcement-april-6.html>

A second Resolution was to approve a proposed Contract between the City and County of Denver and Flatiron Constructors, Inc., regarding the Park Hill Storm, Phase V project. It also approves a contract with Flatiron Constructors, Inc. for \$7,638,647.98 and for one year for placement services of a 84" storm drainage pipe and 24" sanitary pipe from 48th Avenue and Dahlia Street to approximately 360 feet north of Smith Road and Dahlia Street including structural work, water utility relocations, sanitary sewer service reconnections, surface restoration, concrete flatwork, and asphalt paving to provide a 5-year storm system and minimize damage during storm events as part of the citywide Platte to Park Hill: Stormwater Systems project (201734065).

A third Resolution was to approve a proposed Design-Build Contract between the City and County of Denver and Saunders Construction, LLC, for the design and construction of the City Park Golf Course Improvement project. Approves a contract with Saunders Construction, LLC for \$44,990,100 for three years for the design and construction of the City Park Golf Course Improvements project for the renovation of City Park Golf Course in Council District 9 (201732257).

In deference to the fact that a four day trial on the merits of the lawsuit regarding the future of the historic City Park Golf Course is to take place in Denver District Court and is to begin on August 21, 2017, a motion for a postponement was proposed by Councilman Rafael Epinoza. Stacie Gilmore voted against postponement without disclosing that her husband, Scott Gilmore, an immediate family member, has played and will continue to play a major role by providing professional services as the Deputy Executive Director of Parks and Recreation in the matters of the Platte to Park Hill Project and the redesign and re-construction of the Golf Course. Stacie Gilmore, as a Council Member and city decision maker has substantial conflict of interest under the Denver Code of Ethics,.Section 2-61. Conflict of interest while employed,

When Stacie Gilmore was elected to City Council in May of 2015, considerable concern was expressed by the public and in the media regarding the potential for conflicts of interest by the Gilmores in their dual roles, Scott as Mayoral Appointee and Stacie as an elected representative. The Denver Board of Ethics addressed this concern in response to the Gilmores themselves making an inquiry of the Board of Ethics.

The board concluded in a letter on July 28, 2015 to the Gilmores that Scott's job creates "significant potential that situations will arise which represent a substantial conflict of interest for either or both of you." Given the narrow range of direct official action that's barred under the Code of Ethics, the board urged them to "avoid situations that create even the appearance of impropriety."

However, in March of 2016, Denver City Council added provisions to the Code of Ethics in which a substantial conflict of interest is established if a city decision-maker or a member of

the immediate family participated personally in “other professional services” regarding the matter in question (in addition to legal services or lobbying).

Applicable Law

The exact language of applicable sections of the Code are cited below. Highlighted is the language which I believe to be relevant to the instant situation.

Denver Revised Municipal Code, ARTICLE IV., CODE OF ETHICS
Sec. 2-61. Conflict of interest while employed.

The purpose of this section is to avoid influence on the official actions of city officers, employees or officials by their private or family interests,

(a) Except when advised by the city attorney that the rule of necessity applies, an officer, official, or employee shall not take direct official action on a matter before the city if he or she or a member of the immediate family, a business associate or an employer other than the city of the officer, official or employee has any substantial employment, contractual, or financial interest in that matter. A substantial interest shall be deemed to exist if:

(1) He or she or a member of the immediate family, a business associate or an employer other than the city is the other party in the matter;

(2) He, she, a spouse, a domestic partner or minor children solely or aggregated together, a business associate or an employer owns or own one (1) percent or more, or a member of the immediate family other than a spouse, domestic partner or minor children own or owns five (5) percent or more, of another party in the matter;

(3) He or she, a member of the immediate family, a business associate or an employer is a board member or an officer in another party in the matter;

(4) He or she, a member of the immediate family, a business associate or an employer is directly involved in obtaining the city's business for another party in the matter;

(5) He or she, a member of the immediate family, a business associate or an employer is directly involved in negotiating the contract or preparing the bid, proposal, response to a request for qualifications, or similar document for another party in the matter, other than in a purely clerical capacity; or

(6) A member of his or her immediate family performs more than a nominal portion of the work in the matter, or supervises or manages more than a nominal portion of the work.

(7) He or she or a member of his or her immediate family participated personally in providing legal representation, lobbying or other professional services for another party in the matter or owns five (5) percent or more of a law firm, lobbying firm or other 15 professional services firm representing another party in the matter.

(b) For purposes of this section, business associate means a person or entity with whom an officer, official or employee or a member of his or her immediate family is a partner or a co-owner of a business in which the business associate and the officer, official or employee or a member of his or her immediate family each own at least one percent of the business.

(f) Officers, employees or officials who are prohibited from taking direct official action due to a substantial conflict of interest shall disclose such interest to his or her colleagues on a board or commission or to his or her supervisor or appointing authority, shall not act or vote thereon, shall refrain from attempting to influence the decisions of others in acting or voting on the matter and shall work with his or her supervisor or appointing authority to ensure that the matter is assigned to someone without conflicting interests.

Request for Relief

It is the contention of the Complainant that because of her husband, Scott's personal, public and professional participation regarding the decision matters associated with the Platte to Park Hill Stormwater Project and the City Park Golf Course before Denver City Council, Stacie Gilmore is in violation of Sec. 2-61. Conflict of Interest while employed, and should not be allowed to vote on any matter in which her husband, Scott Gilmore, plays or has played a role in providing professional services. She is obligated to disclose her conflict of interest and recuse herself from voting on these matters. In particular, Stacie Gilmore must recuse herself as a decision maker in matters having to do with the Platte to Park Hill Project and City Park Golf Course.